

Below are several e-news items that may be of interest. One that may be of interest is the HIPAA GIVES: Updated State Government White Paper. This may have value to the counties as well. It is available to people who join their organization, at no cost. The link is given within the article below.

As always: Please be sure to note that in some cases the information presented may be the opinion of the original author. We need to be sure to view it in the context of our own organizations and environment. You may need additional information, support, legal opinions and/or decision documentation when interpreting the rules.

My thanks to all the folks who have shared information for this e-news.  
Have a great day!!!  
Ken

Interesting items below:

HIPAA GIVES: Updated State Government White Paper

[hipaalive] PRIVACY: Got Fed AODA/HIPAA Analysis?

[hipaalert] HIPAAAlert - Vol. 3, No. 7 - 7/22/02 ATTACHMENT

[hipaalert] HIPAAAlert NewsBrief - Wed., 7/24/02 ATTACHMENT

[hipaanotes] HIPAAnote - Vol. 2, No. 28 - 7/24/02

[hipaalive] RE: General: schools

HIPAA Implementation Newsletter -- Issue #38 - July 26, 2002

ATTACHMENT

[hipaanotes] HIPAAnote: Vol. 2, No. 29 - 7/31/02 ATTACHMENT

\*\*\*\*\* HIPAA GIVES: Updated State Government White Paper  
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>>> Joyce Young <Joyce.Young@ncmail.net> 07/23/02 10:06AM >>>  
Attached you will find version 3 of the HIPAA GIVES State Government White Paper. The document is also available for download on the Related Links (available to all web visitors) and White Papers (available to members only) pages of the HIPAA GIVES web site.

Joyce Young  
HIPAA GIVES Coordinator  
[www.hipaagives.org](http://www.hipaagives.org)

\*\*\*\*\* [hipaalive] PRIVACY: Got Fed AODA/HIPAA Analysis?

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\*\*\* HIPAAlive! From Phoenix Health Systems/HIPAAAdvisory.com \*\*\*

Mike: If you look on page 82482 of the Federal Register/Vol.65 No 250 Thursday December 28,2000 (Privacy Final Rule) there is full discussion on how HIPAA interacts with the Federal Substance Abuse Confidentiality Requirements, as well as HIPAA's relationship to other federal laws.

Cindy Rupe, RHIA, CPHQ  
HIPAA Coord/Contractor

\*\*\*\*\* [hipaanotes] HIPAAnote - Vol. 2, No. 28 - 7/24/02

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>>> < [info@phoenixhealth.com](mailto:info@phoenixhealth.com) > 07/24/02 06:51AM >>>

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H I P A A n o t e -- Volume 2, Number 28 -- July 24, 2002

>>From Phoenix Health Systems--HIPAA Knowledge--HIPAA Solutions<<  
=>Healthcare IT Consulting & Outsourcing<=

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IT'S HERE! The brand new GUIDE TO MEDICAL PRIVACY AND HIPAA -- a comprehensive, 500-page reference on HIPAA how-to's across every compliance phase, including user-friendly analysis and advice by legal and consulting experts, plus sample forms, checklists, workplans and more -- even regular monthly updates and additions for a year!

Find out more at: <http://www.hipaadvisory.com/wares/HIPAAbook.htm?n>

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This week's HIPAAnote...

\*\*\* Clergy Access to Patient Information: Where to Begin? \*\*\*

The HIPAA Privacy rule permits a covered entity to disclose to a member of the clergy:

- (1) the individual's name;
- (2) the individual's general condition in terms that do not communicate specific medical information about the individual;
- (3) the individual's location in the facility; and
- (4) the individual's religious affiliation.

A disclosure of directory information may be made to members of the clergy even if they do not inquire about an individual by name. So, as a covered entity, can you give all members of the clergy access to your entire patient directory?

Covered entities are not required to obtain religious affiliation from patients, nor are they required to provide this information to the clergy. If you choose

to give access to the clergy, you must look deeper into the regulations before setting up related procedures.

First, your organization must settle on a process to determine who are members of the clergy and who will be allowed access. Unexpected conflicts should be considered, for example if a newspaper reporter is also a member of the clergy. Another potential problem is that with the ease that one can become a member of the clergy, (for example, becoming a "minister" by doing a quick Internet search and completing a simple online form), should anyone claiming clergy status be given access to patient information?

In addition, you should be able to honor patients' rights to a meaningful opportunity to opt-out of directory listings or to restrict some or all of the uses and disclosures that might be included. Many patients may not want their religious affiliation shared with anyone, or they may want it restricted to their minister or denomination. Individuals should be free to determine whether they want their religious affiliation disclosed to clergy through facility directories.

Clearly, policies and procedures in this area must include more than a simple inquiry for the patient's religious affiliation and a request for permission to provide this information to clergy members. As with so many aspects of patient privacy under HIPAA, the devil is in the details. Carefully think through and implement a process that explains how and to whom patient information will be shared, and provides a genuine means for determining not only if patients want their information shared with clergy, but if they also wish their religious affiliation shared. Then make sure all affected staff have access to the patient's recorded choices, and are trained to follow through accordingly.

William M. Miaoulis, Principal  
Phoenix Health Systems

That's today's HIPAAnote...now, pass it along!

\*\*\*\*\* [hipaalive] General: schools

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\*\*\* HIPAALive! From Phoenix Health Systems/HIPAAAdvisory.com \*\*\*

Check out the Dept. of Education web site regarding FERPA and the summary  
Hipaa/Ferpa

"This Office has not published any guidance on the applicability of FERPA to HIPAA. However, we worked closely with the Department of Health and Human Services (HHS) on this issue during the rulemaking process. Because FERPA

affords students adequate privacy protections, the Government agreed that records that are protected by FERPA should not be subject to HIPAA."

<http://www.ed.gov/offices/OM/fpc/pco/philipburlingame.html>

Many University Health Services are struggling with this as they not only treat students covered under FERPA, they also treat faculty and other University employees who fall under Hipaa - two sets of rules to follow.

Diane Bradley  
Cooley Dickinson PHO

\*\*\* HIPAAlive! From Phoenix Health Systems/HIPAAAdvisory.com \*\*\*

I think there's another wrinkle here that's worth mentioning:

The HIPAA privacy preamble says:

We have also excluded certain records, those described at 20 U.S.C. 1232g(a)(4)(B)(iv), from the definition of protected health information because FERPA also provided a specific structure for the maintenance of these records. These are records (1) of students who are 18 years or older or are attending post-secondary educational institutions, (2) maintained by a physician, psychiatrist, psychologist, or recognized professional or paraprofessional acting or assisting in that capacity, (3) that are made, maintained, or used only in connection with the provision of treatment to the student, and (4) that are not available to anyone, except a physician or appropriate professional reviewing the record as designated by the student.

Now, many student health clinics in colleges today don't function as FERPA covered clinics. Point 3 refers specifically to treatment only. Many of the student health clinics I am aware of bill students for services, like a normal physician's office. That isn't treatment, but payment. In these cases, HIPAA seems to apply to the clinics, because the records are no longer meeting the definition of the FERPA exception.

Tom